

#37

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**TERMINAL DISCLAIMER TO OBTAIN A PROVISIONAL DOUBLE
PATENTING REJECTION OVER A PENDING SECOND APPLICATION**

Docket Number (Optional)
2303-11-3

In re Application of: Murphy et al

Application No. 09/083,793 ✓

Filed: May 22, 1998

For: Production of Attenuated Parainfluenza Virus Vaccines From Cloned Nucleotide Sequences

The owner*, National Institutes of Health of 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application, which would extend beyond the expiration date of the full statutory term defined in 35 U.S.C. 154 and 173 as shortened by any terminal disclaimer filed prior to the grant of any patent granted on pending Application Numbers 09/458,813 filed on December 10, 1999; 09/459,062 filed on December 10, 1999; 09/424,628 filed on April 5, 2000; and 09/586,479 filed on June 1, 2000 of any patent on these applications. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and any patent granted on the second application are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of any patent granted on the second application, as shortened by any terminal disclaimer filed prior to the patent grant, in the event that any such granted patent: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid by a court of competent jurisdiction, is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321, has all claims cancelled by a reexamination certificate, is reissued, or is in any manner terminated prior to the expiration of its full statutory term as shortened by any terminal disclaimer filed prior to its grant.

Check either box 1 or 2 below, if appropriate.

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I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney of record.

07/24/2003 CNGUYEN 00000041 09083793

02 FC:1814

110.00 DP ✓

July 21, 2003

Signature

Date

Jeffrey J. King ✓

Typed or printed name

425/455-5575

Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) is included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/96 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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DOCKET NO.: 2303-11-3/E-089-97/0 (formerly NIH-0071)

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:
Brian R. Murphy et al.

Serial No.: 09/083,793

Group Art Unit: 1648

Filing Date: May 22, 1998

Examiner: S. Brown

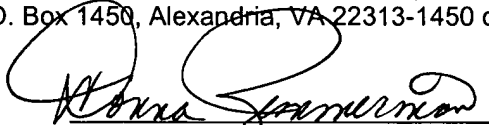
For: Production of Attenuated Parainfluenza Virus Vaccines From Cloned Nucleotide Sequences

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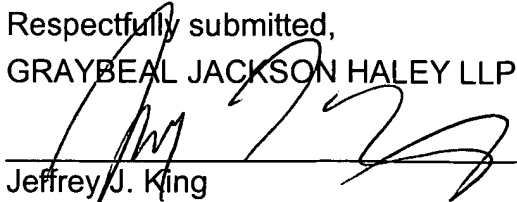
TO THE COMMISSIONER FOR PATENTS:

Transmitted herewith is:

An amendment in the above-identified application.

- ☒ No additional fee is required.
- ☒ Petition for 2 Month Extension with Check No. 20719 for \$410.00
- ☒ Terminal Disclaimer with Check No. 20720 for \$110.00
- ☒ Please charge any deficiency fees or credit overpayment to Deposit Account No. 07-1897.

Respectfully submitted,
GRAYBEAL JACKSON HALEY LLP


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